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9
10 **BEFORE THE**
RESPIRATORY CARE BOARD
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 1H-2007-480

13 RICHARD ANTHONY SPRAGUE, R.C.P.
6153 Horton Drive
14 La Mesa, CA 91942

ACCUSATION

15 Respiratory Care Practitioner License No. 19625

16 Respondent.

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18 Complainant alleges:

19 PARTIES

20 1. Stephanie Nunez (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Respiratory Care Board of California (Board).

22 2. On or about September 2, 1997, the Board issued Respiratory Care
23 Practitioner License Number 19625 to RICHARD ANTHONY SPRAGUE, R.C.P.
24 (Respondent). The Respiratory Care Practitioner License was in full force and effect at all times
25 relevant to the charges brought herein and will expire on August 31, 2009, unless renewed.

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4. Section 3710 of the Code states, in pertinent part, that “The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act].”

6. Section 3750 of the Code states:

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1 may decline to issue a license, when the time for appeal has elapsed, or the judgment of
2 conviction has been affirmed on appeal or when an order granting probation is made
3 suspending the imposition of sentence, irrespective of a subsequent order under Section
4 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to
5 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
6 accusation, information, or indictment.”

7 8. California Code of Regulations, title 16, section 1399.370, states:

8 “For the purposes of denial, suspension, or revocation of a license, a crime or act
9 shall be considered to be substantially related to the qualifications, functions or duties of
10 a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to
11 perform the functions authorized by his or her license or in a manner inconsistent with the
12 public health, safety, or welfare. Such crimes or acts shall include but not be limited to
13 those involving the following:

14 “(a) Violating or attempting to violate, directly or indirectly, or assisting or
15 abetting the violation of or conspiring to violate any provision or term of the Act.

16 “...

17 “(c) Conviction of a crime involving driving under the influence or reckless
18 driving while under the influence.

19 “...”

20 COST RECOVERY

21 9. Section 3753.1 of the Code states:

22 “(a) An administrative disciplinary decision imposing terms of probation may
23 include, among other things, a requirement that the licensee-probationer pay the monetary costs
24 associated with monitoring the probation.”

25 10. Section 3753.5, subdivision (a) of the Code states:

26 “In any order issued in resolution of a disciplinary proceeding before the board,
27 the board or the administrative law judge may direct any practitioner or applicant found to have
28 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the

1 investigation and prosecution of the case.”

2 11. Section 3753.7 of the Code states:

3 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall
4 include attorney general or other prosecuting attorney fees, expert witness fees, and other
5 administrative, filing, and service fees."

6 FIRST CAUSE FOR DISCIPLINE

7 (Conviction of a Crime Substantially Related to the Qualifications,
8 Functions and Duties of a Respiratory Care Practitioner)

9 12. Respondent is subject to disciplinary action under section 3750 of the
10 Code, as defined by sections 3750, subdivision (d), 3752, and California Code of Regulations,
11 title 16, section 1399.370, subdivision (c), in that Respondent has been convicted of a crime
12 substantially related to the qualifications, functions, and duties of a Respiratory Care Practitioner.
13 The circumstances are as follows:

14 a. On or about August 20, 2007, Respondent was involved in a vehicle
15 collision. A police officer was dispatched to the accident scene, where he administered a
16 Preliminary Alcohol Screening (PAS) device test on Respondent. The result of the test
17 indicated a .112% blood alcohol content.

18 b. On or about November 26, 2007, Respondent was convicted by a plea of
19 guilty to driving a vehicle while having a blood alcohol content of .08% or higher.

20 c. On or about November 26, 2007, Respondent was sentenced to a five-year
21 probation.

22 SECOND CAUSE FOR DISCIPLINE

23 (Conviction of a Violation of the Respiratory Care Practice Act)

24 13. Respondent is further subject to disciplinary action under section 3750
25 of the Code, as defined by sections 3750, subdivision (g), 3752, and California Code of
26 Regulations, title 16, section 1399.370, subdivision (a), in that Respondent has been convicted of
27 a violation of the Respiratory Care Practice Act. The circumstances are as follows: Paragraph
28 12, above, is incorporated by reference as if fully set forth herein.

